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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,644	02/10/2004	Erdal Karamuk	36441	1293

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,644

Applicant(s)

KARAMUK, ERDAL

Examiner

HUYEN D. LE

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 14-27 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 16 is objected to because of the following: on line 2, "preferably" should be deleted since it does not have a positive limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
3. Claim 5 recites the limitation "the bars" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-7, 14-15, 23-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Banter et al. (U.S. patent 6,512,834).

Regarding claims 1, 15 and 27, Banter teaches a microphone cover (14, figure 2) for hearing devices for covering openings. The cover (14) comprises a ring (figures 3-14) with the

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racks (11 and/or 38, 39) as claimed. As shown in figure 2, the outer diameter of the ring (14) is nearly equivalent with the inner diameter of the corresponding opening (12, 13) as claimed.

Regarding claims 2-3, Banter shows the ring (14) as claimed (figures 2-10).

Regarding claim 4, Banter shows the racks (38, 39) as claimed (figures 13, 14).

Regarding claims 6-7, the microphone cover (14) consists of a one piece plastic and is made of in injection molding technique as claimed (col. 7, lines 33-41, col. 9, lines 21-33).

Regarding claim 14, as broadly claimed, Banter shows the flanges as claimed (figures 4, 6, 8, 10).

Regarding claim 23, Banter teaches a microphone cover (14, figure 2) for hearing devices for covering openings. The cover (14) comprises a ring (figures 3-14) with the racks (38, 39) as claimed. As shown in figure 2, the outer diameter of the ring (14) is nearly equivalent with the inner diameter of the corresponding opening (12, 13) as claimed. Banter further shows a stop means in the inside of the opening (12, 13, also see figures 2, 8 and 10).

Regarding claim 24, Banter teaches a microphone in the microphone location (12) that is arranged within the hearing device and connected to a channel (11) as claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 8-9, 12 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banter et al. (U.S. patent 6,512,834) in view of Weiss et al. (U.S. patent 4,972,488) or Gunnersen et al. (U.S. patent 6,795,562).

Regarding claims 8-9 and 12, Banter does not teach a bar-shaped tool for connecting the ring (14). However, it is very well known in the art to provide a tool for coupling and removing a small cover or a small cap covering a sound opening.

Weiss or Gunnersen teaches a tool having a bridge for coupling and removing a barrier in a sound opening of a hearing aid (figures 36, 37 in Weiss and figures 5, 6, 7 and 10 in Gunnersen)

Since the ring (14, 20, 21, 22, 34, 36) of Banter is replaceable, it therefore would have been obvious to one skilled in the art to provide any tool such as a bar-shaped tool having a bridge or provided as a holding device to the Banter device for easily removing and replacing the barrier or the ring.

Regarding claims 16-19, as broadly claimed, Banter teaches a filter (20) that is arranged at the inside the ring (figures 4, 6, 8, 10, 12, 14).

8. Claims 20-22 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banter et al. (U.S. patent 6,512,834).

Regarding claims 20-22, Banter does not specifically disclose the materials for the filter or protective membrane as claimed. Banter does not restrict to any material for the protective membrane (20, col. 6, lines 31-67 and col. 7, lines 16-32).

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Therefore, it would have been obvious to one skilled in the art to provide any material for the protective membrane (20) of Banter such as metal, plastic or natural fabrics with the coatings for providing a better liquid-permeable material to the acoustic covers (14, 20).

Regarding claims 25-26, Banter does not specifically teach a depth for the stop means or the inside surface being partially rough to provide a friction joint as claimed.

However, Banter does teach and show a thickness of the ring or the cover (14, figures 4, 6, 8, 10) that is mounted in the opening (12, 13, figure 2); it therefore would have been obvious to one skilled in the art to provide the stop means in the inside of the opening (12, 13) of Banter device being arranged a depth or the inside surface of the opening (12, 13) being partially rough for better fitting the ring or the cover (14) in the opening (12, 13).

Allowable Subject Matter

9. Claims 10, 11, 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Banter et al. (U.S. patent 6,932,187) teaches a protective cover assembly that is comprised of a metal foil.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HL
December 8, 2006



HUYEN LE
PRIMARY EXAMINER